

House Bill 894

By: Representatives Reese of the 98th, Burmeister of the 119th, Coan of the 101st, Maddox of the 172nd, Hatfield of the 177th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 2 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia
2 Annotated, relating to juvenile court administration, and Part 1 of Article 4 of Chapter 2 of
3 Title 21 of the Official Code of Georgia Annotated, relating to general provisions relative
4 to selection and qualification of candidates and presidential electors, so as to provide for the
5 election of judges of juvenile courts in nonpartisan elections; to provide that juvenile court
6 judges serving on the effective date of this Act shall complete the terms for which they were
7 appointed; to provide that the number of circuit-wide judges and their status as full time or
8 part time shall remain the same until changed by local Act; to provide for continued
9 assumption of juvenile court duties by a superior court judge unless and until changed by
10 local Act; to provide for designation of a presiding judge; to provide for filing notices of
11 candidacy, designation of the specific office sought, and the placing of names of candidates
12 who have qualified for the office of judge of the juvenile court on the ballot in the
13 nonpartisan election held jointly with the general primary; to provide for conformance of
14 procedures for such elections with procedures governing general primaries and general
15 elections; to provide for related matters; to provide for an effective date; to repeal conflicting
16 laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Part 2 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
20 relating to juvenile court administration, is amended by striking Code Section 15-11-18,
21 relating to juvenile courts and judges, and inserting in lieu thereof the following:

22 "15-11-18.

23 (a) *Creation.* There is created a juvenile court in every county in the state.

24 (b) ~~*Appointment; authority; judgeships in existence on or before October 1, 2000.* The~~
25 ~~judge or a majority of the judges of the superior court in each circuit in the state may~~

~~appoint one or more qualified persons as judge of the juvenile courts of the circuit. Such superior court judge or judges shall establish the total number of circuit-wide juvenile court judges and shall establish whether the judge or judges shall be full time or part time, or a combination of full time and part time. Each circuit-wide judge appointed will have the authority to act as judge of each juvenile court in each county of the circuit. If no person is appointed as a juvenile court judge for the circuit, then the superior court judge or judges of the circuit shall assume the duties of the juvenile court judge in all counties in the circuit in which a separate juvenile court judgeship had not been established as part of the duties of the superior court judge. All juvenile court judgeships, their methods of compensation, selection, and operation, established on or before October 1, 2000, shall continue until such time as one or more circuit-wide juvenile court judges are appointed. However, in any circuit where a superior court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled to the state funds provided for in subsection (d) of this Code section.~~ Election; judges serving on July 1, 2006. Juvenile court judges serving on July 1, 2006, shall be authorized to complete the terms for which they were appointed. On and after July 1, 2006, any vacancy for the office of judge of the juvenile court shall be filled by election in a nonpartisan election. The total number of circuit-wide juvenile court judges established as of July 1, 2006, shall remain the same until changed by local Act. The status of each juvenile court judge as full time or part time as of July 1, 2006, shall remain the same until changed by local Act. In any circuit where the duties of the juvenile court judge are assumed by a superior court judge as of July 1, 2006, such duties shall continue to be assumed by a superior court judge unless and until a local Act provides for one or more juvenile court judges in such circuit. In any circuit where a superior court judge assumes the duties of the juvenile court judge, such circuit shall not be entitled to the state funds provided for in subsection (d) of this Code section.

~~(c) Fulfilling preexisting terms; jurisdiction. When one or more circuit-wide juvenile court judges are appointed, any juvenile court judge in office at that time shall be authorized to fulfill his or her term of office. The jurisdiction of each judge shall be circuit wide.~~ Jurisdiction. Each circuit-wide judge shall have the authority to act as judge of the juvenile court in each county of the circuit.

(d) *Terms and compensation of judges.*

(1) Each juvenile court judge ~~appointed~~ elected under this Code section shall serve for a term of four years. Except as otherwise provided by law, the compensation of the full-time or part-time juvenile court judges shall be set by the superior court as provided in subsection (h) of this Code section with the approval of the governing authority or

governing authorities of the county or counties for which the juvenile court judge is appointed.

(2) The state, out of funds appropriated to the judicial branch of government, shall contribute toward the salary of the judges on a per circuit basis in the following amounts:

(A) Each circuit with one or more juvenile court judges who are not superior court judges assuming the duties of juvenile court judges shall receive a state grant of \$85,000.00. Such state funds shall be spent solely on salaries for juvenile court judges and shall not be used for any other purposes.

(B) In addition to the base amount set out in subparagraph (A) of this paragraph, each circuit which on or after October 1, 2000, has more than four superior court judges is eligible for additional state grants. For each superior court judge who exceeds the base of four judges, the circuit shall be eligible for an additional grant in an amount equal to one-fourth of the base amount of the state grant set out in subparagraph (A) of this paragraph. Such additional state grants shall be spent solely on salaries for juvenile court judges and shall not be used for any other purposes.

(C) In those circuits where the judge or judges of the superior court elect to use the state grant provided in this Code section for one or more part-time judges, the amount of the state grant shall be as follows:

- (i) For each part-time judge who works one day weekly \$ 17,000.00
- (ii) For each part-time judge who works two days weekly 34,000.00
- (iii) For each part-time judge who works three days weekly 51,000.00
- (iv) For each part-time judge who works four days weekly 68,000.00;

provided, however, that a grant for one or more part-time judges shall not exceed the amount the circuit is eligible for in accordance with subparagraphs (A) and (B) of this paragraph.

~~(3) After the initial appointments and prior to any subsequent appointment or reappointment of any part-time or full-time juvenile court judge under this Code section, the judge or judges responsible for making the appointment shall publish notice of the opening on the juvenile court once a month for three months prior to such appointment or reappointment in the official legal organs of each of the counties in the circuit where the juvenile court judge has venue. The expense of such publication shall be paid by the county governing authority in the county where such notice or notices are published.~~

(e) *Qualifications of judges.* No person shall be judge of the juvenile court unless, at the time of his or her appointment, he or she has attained the age of 30 years, has been a citizen

1 of the state for three years, and has practiced law for five years. A juvenile court judge shall
2 be eligible for reappointment.

3 (f) *Presiding judge.* ~~In the event that more than one juvenile court judge is appointed, one~~
4 ~~shall be designated presiding judge.~~ In a county or circuit that has more than one juvenile
5 court judge, the juvenile court judge with the longest period of service as a juvenile court
6 judge shall be designated presiding judge.

7 (g) *Practice of law by judges.* It shall be unlawful for any full-time juvenile court judge
8 to engage in any practice of law outside his or her role as a juvenile court judge. It shall be
9 unlawful for a part-time judge of any juvenile court to engage directly or indirectly in the
10 practice of law in his or her own name or in the name of another as a partner in any manner
11 in any case, proceeding, or matter of any kind in his or her own court or in any other court
12 in any case, proceeding, or any other matters of which his or her own court has pending
13 jurisdiction or has had jurisdiction. It shall be unlawful for any juvenile court judge, full
14 time or part time, to give advice or counsel to any person on any matter of any kind
15 whatsoever which has arisen directly or indirectly in his or her own court, except such
16 advice or counsel as he or she is called upon to give while performing the duties of a
17 juvenile court judge.

18 (h) ~~*Action by superior court judges.* In any case in which action under this Code section~~
19 ~~is to be taken by the superior court judge of the circuit, such action shall be taken as~~
20 ~~follows:~~

21 ~~(1) Where there are one or two judges, such action shall be taken by the chief judge of~~
22 ~~the circuit; and~~

23 ~~(2) Where there are more than two judges, such action shall be taken by a majority vote~~
24 ~~of the judges of the circuit.~~ Reserved.

25 (i) *Administration and expenses.* Each juvenile court created under this article shall be
26 assigned and attached to the superior court of the county for administrative purposes. The
27 governing authority of the county of residence of each juvenile court judge shall offer the
28 juvenile court judge or judges insurance benefits and any other benefits except retirement
29 or pension benefits equivalent to those offered to employees of the county, with a right to
30 contribution from other counties in the circuit for a ~~pro-rata~~ pro rata contribution toward
31 the costs of such benefits, based on county population. Counties shall continue to provide
32 membership in retirement plans available to county employees for any juvenile court judge
33 in office before July 1, 1998, who did not become a member of the Georgia Judicial
34 Retirement System provided by Chapter 23 of Title 47. Except as otherwise provided by
35 subsection (d) of this Code section, all expenditures of the court are declared to be an
36 expense of the court and payable out of the county treasury with the approval of the

governing authority or governing authorities of the county or counties for which the juvenile court judge is ~~appointed~~ elected.

(j) *Applicability.*

(1) To the extent that the provisions of this Code section conflict with a local constitutional amendment authorizing the election of a juvenile court judge and with the provisions of a local Act authorized by such local constitutional amendment to provide for the term of office, vacancies in office, qualifications, compensation, and full-time or part-time status of a juvenile court judge or judges, the provisions of such local constitutional amendment and such local Act shall govern.

(2) The state grants provided by subsection (d) of this Code section shall be provided to any circuit encompassing a juvenile court governed by the provisions of a local constitutional amendment and a local Act in the same manner as other circuits, except that, in any circuit with one or more ~~elected~~ juvenile court judges elected pursuant to such local constitutional amendment and local Act, the elected juvenile court judge who is senior in duration of service as a juvenile court judge shall establish, subject to other applicable provisions of law, the total number of circuit-wide juvenile court judges, whether the judge or judges shall be full time or part time or a combination of full time and part time, and the compensation of any part-time juvenile court judge or judges.

(k)(1) *Simultaneous service by judges.* No person who is serving as a full-time juvenile court judge ~~after appointment as judge pursuant to this Code section~~ shall at the same time hold the office of judge of any other class of court of this state.

~~(2) The provisions of paragraph (1) of this subsection shall also apply to any person serving as a juvenile court judge after being elected juvenile court judge pursuant to a local law authorized by a constitutional amendment providing for the election of one or more juvenile court judges.~~

~~(3)~~ (2) Nothing in this subsection shall prevent any ~~duly appointed or elected~~ juvenile court judge from sitting by designation as a superior court judge pursuant to Code Section 15-1-9.1 or as otherwise provided by law."

SECTION 2.

Said part is further amended by repealing Code Section 15-11-18.1, relating to orders appointing judges and associate judges and commissions.

SECTION 3.

Part 1 of Article 4 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to general provisions relative to selection and qualification of candidates and

1 presidential electors, is amended in Code Section 21-2-132, relating to notices of candidacy,
2 nomination petitions, affidavits, qualifying fees, and pauper's affidavits and qualifying
3 petitions, by striking subsections (c) and (i) and inserting in lieu thereof the following:

4 "(c) Except as provided in subsection (i) of this Code section, all candidates seeking
5 election in a nonpartisan election shall file their notice of candidacy and pay the prescribed
6 qualifying fee by the date prescribed in this subsection in order to be eligible to have their
7 names placed on the nonpartisan election ballot by the Secretary of State or election
8 superintendent, as the case may be, in the following manner:

9 (1) Each candidate for the office of judge of the juvenile court, judge of the superior
10 court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's
11 agent, desiring to have his or her name placed on the nonpartisan election ballot shall file
12 a notice of candidacy, giving his or her name, residence address, and the office sought,
13 in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in
14 April immediately prior to the election and no later than 12:00 Noon on the Friday
15 following the fourth Monday in April, notwithstanding the fact that any such days may
16 be legal holidays; and

17 (2) Each candidate for a county judicial office, a local school board office, or an office
18 of a consolidated government, except those offices which on July 1, 2001, were covered
19 by local Acts of the General Assembly which provided for election in a nonpartisan
20 election without a prior nonpartisan primary, or the candidate's agent, desiring to have
21 his or her name placed on the nonpartisan election ballot shall file notice of candidacy in
22 the office of the superintendent no earlier than 9:00 A.M. on the fourth Monday in April
23 immediately prior to the election and no later than 12:00 Noon on the Friday following
24 the fourth Monday in April, notwithstanding the fact that any such days may be legal
25 holidays."

26 "(i) Notwithstanding any other provision of this chapter to the contrary, for general
27 elections held in the even-numbered year immediately following the official release of the
28 United States decennial census data to the states for the purpose of redistricting of the
29 legislatures and the United States House of Representatives, candidates in such elections
30 shall qualify as provided in this subsection:

31 (1) All candidates seeking election in a nonpartisan election shall file their notice of
32 candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph
33 in order to be eligible to have their names placed on the nonpartisan election ballot by the
34 Secretary of State or election superintendent, as the case may be, in the following manner:

35 (A) Each candidate for the office of judge of the juvenile court, judge of the superior
36 court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the

1 candidate's agent, desiring to have his or her name placed on the nonpartisan election
2 ballot shall file a notice of candidacy, giving his or her name, residence address, and the
3 office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on the
4 third Wednesday in June immediately prior to the election and no later than 12:00 Noon
5 on the Friday following the third Wednesday in June, notwithstanding the fact that any
6 such days may be legal holidays; and

7 (B) Each candidate for a county judicial office, a local school board office, or an office
8 of a consolidated government, except those offices which on July 1, 2001, were covered
9 by local Acts of the General Assembly which provided for election in a nonpartisan
10 election without a prior nonpartisan primary, or the candidate's agent, desiring to have
11 his or her name placed on the nonpartisan election ballot shall file notice of candidacy
12 in the office of the superintendent no earlier than 9:00 A.M. on the third Wednesday in
13 June immediately prior to the election and no later than 12:00 Noon on the Friday
14 following the third Wednesday in June, notwithstanding the fact that any such days may
15 be legal holidays;

16 (2) All political body and independent candidates shall file their notice of candidacy and
17 pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be
18 eligible to have their names placed on the general election ballot by the Secretary of State
19 or election superintendent, as the case may be, in the following manner:

20 (A) Each candidate for federal or state office, or his or her agent, desiring to have his
21 or her name placed on the general election ballot shall file a notice of his or her
22 candidacy, giving his or her name, residence address, and the office he or she is
23 seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the last
24 Monday in July immediately prior to the election and no later than 12:00 Noon on the
25 Friday following the last Monday in July; and

26 (B) Each candidate for a county office, including those offices which on July 1, 2001,
27 were covered by local Acts of the General Assembly which provided for election in a
28 nonpartisan election without a prior nonpartisan primary, or his or her agent, desiring
29 to have his or her name placed on the general election ballot shall file notice of his or
30 her candidacy in the office of the superintendent of his or her county no earlier than
31 9:00 A.M. on the last Monday in July immediately prior to the election and no later than
32 12:00 Noon on the Friday following the last Monday in July; and

33 (3) Candidates required to file nomination petitions under subsection (e) of this Code
34 section shall file such petitions not earlier than 9:00 A.M. on the fourth Monday in July
35 immediately prior to the general election and not later than 12:00 Noon on the first
36 Monday in August immediately prior to the general election."

SECTION 4.

Said part is further amended in Code Section 21-2-135, relating to designation of specific office sought where office has multiple officeholders with the same title, by striking subsection (b) and inserting in lieu thereof the following:

"(b) In the case of the office of judge of the juvenile court, judge of a state court, judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, the name of the person such candidate is seeking to succeed and such other designation as may be required by the Secretary of State or election superintendent shall be included in the title of the office on the ballot in all nonpartisan elections."

SECTION 5.

Said part is further amended by striking Code Section 21-2-138, relating to nonpartisan elections for judicial offices, and inserting in lieu thereof the following:

"21-2-138.

The names of all candidates who have qualified with the Secretary of State for the office of judge of the juvenile court, judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court of this state and the names of all candidates who have qualified with the election superintendent for the office of judge of a state court shall be placed on the ballot in a nonpartisan election to be held and conducted jointly with the general primary in each even-numbered year; provided that nonpartisan elections for the office of judge of the state court which was covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary shall be held and conducted jointly with the general election in even-numbered years. No candidates for any such office shall be nominated by a political party or by a petition as a candidate of a political body or as an independent candidate. Candidates for any such office, except offices which were covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary, shall have their names placed on the nonpartisan portion of each political party ballot by complying with the requirements prescribed in Code Section 21-2-132 specifically related to such nonpartisan candidates and by paying the requisite qualifying fees as prescribed in Code Section 21-2-131. The Secretary of State may provide for the printing of independent ballots containing the names of the nonpartisan candidates for those voters not affiliated with a political party. Candidates shall be listed on the official ballot in a nonpartisan election as provided in Code Sections 21-2-284.1 and 21-2-285.1, respectively. Except as otherwise specified in this chapter, the procedures to be employed in conducting the nonpartisan election of judges of the juvenile courts, judges

1 of state courts, judges of superior courts, Judges of the Court of Appeals, and Justices of
2 the Supreme Court shall conform as nearly as practicable to the procedures governing
3 general primaries and general elections; and such general primary and general election
4 procedures as are necessary to complete this nonpartisan election process shall be adopted
5 in a manner consistent with such nonpartisan elections."

6 **SECTION 6.**

7 This Act shall become effective on July 1, 2006.

8 **SECTION 7.**

9 All laws and parts of laws in conflict with this Act are repealed.